THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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Writ Petition No.17259 of 2011

ORDER:

The petitioner intended to purchase vast extent of land, namely 532 acres, in Avulapally Revenue Village, Somala Mandal, Punganuru Sub-District, Chittoor District. Agreements of sale are said to have been entered into, and they, in turn, were followed the execution of two sale deeds, dated 26.04.2011, in respect of 266 acres, each. The vendors were 13 in number. The petitioner presented the same for registration before the Sub-Registrar, Punganur, the 3rd respondent herein. It has also filed a certificate, dated 11.04.2011, said to have been issued by the Tahasildar, Somala Mandal, to the effect that the land in survey No.33/1 admeasuring 561 acres, is registered in the name of one Mr.Syed Hussen and that it is not the subject-matter of any proceedings under the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short 'Land Ceiling Act'). The 3rd respondent passed a speaking order, dated 27.04.2011, directing that the petitioner shall submit a 'No Objection Certificate (NOC)' issued by the Revenue Divisional Officer. Mention was made to the letter, dated 24.01.2009, issued by the Commissioner and Inspector General of Registration and Stamps, the 1st respondent, as well as the report of a Committee constituted by the Government.

The petitioner contends that the insistence on NOC by the 3rd respondent is without any jurisdiction and that the compliance of Section 19 of the Land Ceiling Act, is evident from the letter, dated 11.04.2011, issued by the Tahasildar. It represents that the action of the 3rd respondent in passing the impugned order is arbitrary and illegal.

The 3rd respondent filed a detailed counter-affidavit. It is stated

that since the land is vast in extent, the effort was to ensure that Section 19 of the Land Ceiling Act is complied with and NOC is obtained from the primary authority i.e. Revenue Divisional Officer. It is also pleaded that as per the information furnished by the Revenue Divisional Officer, the land belongs to Government.

Heard Sri D. Seshadri Naidu, learned counsel for the petitioner, and learned Government Pleader for Revenue.

The petitioner presented two sale deeds covering an extent of 532 acres for registration before the 3rd respondent. In the recent past, the Government has evolved several mechanisms to ensure that the land owned it by or assigned lands are not transferred indiscriminately. Earlier Section 22-A was introduced in the Registration Act, 1908 (for short 'the Act'), providing for prohibition of registration of documents in respect of the lands that are mentioned in the notification issued under that provision. A Division Bench of this Court has struck down the same following the judgment of the Supreme Court in **State of Rajasthan v. Basanth Nahata**[1]. Thereafter, a new provision with the same number, but with different content has been added through A.P. Act 19 of 2007.
It prohibits the registration of documents in respect of various kinds of lands or properties, mentioned in clauses (a) to (e) of sub-section (1) thereof. The lands owned by the Government, assigned lands, lands held by the religious institutions or the land adjudicated as surplus, under the Land Ceiling Act or the Urban Land (Ceiling and Regulation) Act, 1976, figure in such categories.

Obviously because the land is vast in extent, the 3rd respondent wanted to ensure compliance with not only Section 22-A of the Act, but also with section 19 of the Land Ceiling Act. Therefore, he insisted on submission of NOC from the Revenue Divisional Officer, who happens to be Primary Authority under the Act.

A perusal of Section 19 of the Land Ceiling Act discloses that any person, who intends to alienate the land, i.e. the vendor, is required to file a declaration to the effect that he did not hold any land in excess of the ceiling limits. Even if a certificate has been issued by the Tahasildar, to that effect, it cannot be treated as proper compliance with the provisions. Further, a perusal of the copy of the certificate issued by the Tahasildar to the petitioner discloses that he has crossed all limits of propriety and legality and was carried away by extraneous considerations. First of all, the land is said to be held by a person who is no more. Secondly, he did not state as to whether any proceedings have ensured under the Act in respect of the said land, and if so, the result thereof. Through a cryptic certificate, he proposed to clear the way for the registration of the document in respect of such a vast extent. The said certificate, even if true, is totally objectionable and cannot be acted upon.

The petitioner does not dispute that the obligation under Section 19 of the Land Ceiling Act must be discharged by its vendors. Admittedly such declaration has not been submitted. The 3rd respondent did nothing more than insisting on compliance with Section 19 of the Land Ceiling Act. The authority to verify the same is the Revenue Divisional Officer. He cannot only verify the state of affairs under the Act, *vis-à-vis* the said land, but also can certify with the land is held to be excess of ceiling limits.

Hence, the writ petition is disposed of directing that, in case the petitioner complies with Section 19 of the Land Ceiling Act and submits declarations, the 3rd respondent shall forward the same to the concerned Revenue Divisional Officer. The Revenue Divisional Officer, in turn, shall be under obligation to verify not only the state of affairs of the land

vis-à-vis the provisions of the Act, but also mention whether the

Government has any interest of ownership, or otherwise *vis-à-vis* the lands. The steps to be taken by the 3rd respondent would depend upon the nature of the certification to be made by the Revenue Divisional Officer. Four weeks time is granted to the petitioner to submit the declarations and to comply with the formalities. In case the declarations are filed and other formalities are completed, the 3rd respondent shall forward the same for verification to the Revenue Divisional Officer within two weeks thereof. The Revenue Divisional Officer, in turn, shall pass orders and communicate the same to the 3rd respondent within two months thereafter.

The miscellaneous petition filed in this writ petition also stands disposed of.

There shall be no order as to costs.

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L.NARASIMHA REDDY, J.

Dated:05.06.2012

GJ

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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[1] AIR 2005 SC 3401